

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Promote Community Broadband Planning and Strengthen Economic Opportunity throughout Maine

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §12004-I, sub-§85-A, as enacted by PL 2005, c. 665, §2, is repealed.

Sec. 2. 35-A MRSA §9202, sub-§§3 to 5, as enacted by PL 2005, c. 665, §3, are amended to read:

3. Communications service. "Communications service" means any wireline voice, satellite, data, fixed wireless data, facilities-based wireless voice or data or video retail service.

4. Communications service provider. "Communications service provider" means:

A. Any entity offering communications service to customers in the State; ~~or~~.

B. ~~Any facilities-based provider of wireless voice or data retail service that voluntarily chooses to be assessed by the authority pursuant to section 9211.~~

5. Unserved or underserved area. "Unserved or underserved area" means an area that the authority pursuant to section ~~9204~~9204-A, subsection ~~2~~, ~~paragraph B1~~ determines to meet criteria established by the authority by rule adopted pursuant to section 9205, subsection 3 ~~in accordance with section 9204, subsection 1.~~

Sec. 3. 35-A MRSA §9202-A, as enacted by PL 2009, c. 586, §1, is repealed and the following enacted in its place:

§ 9202-A. State broadband policy

1. Goals. The goals of the State related to broadband service are that:

A. Broadband service be universally available in this State, including to all residential and business locations and community anchor institutions;

B. There be secure, reliable, competitive and sustainable forward-looking infrastructure that can meet future broadband needs; and

C. All residents, businesses and institutions in the State be able to take full advantage of the economic opportunities available through broadband service.

2. Policies. The policies of the State related to broadband service are to:

A. Maximize sustainable investment in broadband infrastructure in the State;

B. Maximize federal and private resources to support the deployment of broadband infrastructure in unserved and underserved areas of the State;

C. Prioritize the use of state resources to assist deployment of infrastructure to provide broadband service in unserved and underserved areas of the State;

D. Promote adoption of broadband service by residents, businesses and institutions; and

E. Leverage existing infrastructure to extend broadband service.

Sec. 4. 35-A MRSA §9203, sub-§§1 to 3, as enacted by PL 2005, c. 665, §3, are amended to read:

1. Establishment; membership. ~~The ConnectME Authority is established to stimulate investment in advanced communications technology infrastructure in unserved or underserved areas~~further the goals and policies in section 9202-A. The authority is created as a body corporate and politic and a public instrumentality of the State. The exercise by the authority of powers conferred by this chapter is considered to be the performance of essential governmental functions. The authority consists of the following 57 voting members:

A. The chair of the Public Utilities Commission or the chair's designee;

B. The Chief Information Officer of the State; or the officer's designee;

C. One representative of consumers, appointed by the Governor; ~~and~~

D. Two members with significant knowledge of communications technology, appointed by the Governor;

E. The Commissioner of Economic and Community Development or the commissioner's designee; and

F. One member with significant knowledge of telemedicine as defined in Title 24-A, section 4316, subsection 1, appointed by the Governor.

Compensation of members is as provided in Title 5, section 12004-G, subsection 33-F.

2. Terms; chair; vacancies. All members are appointed for 3-year terms. The Governor shall appoint a chair from among the 34 members appointed by the Governor. In the event of a vacancy in the membership, the Governor shall appoint a replacement member for the remainder of that vacated term. Each member of the authority serves until that member's successor is appointed and qualified. Any member of the authority is eligible for reappointment.

3. Officers; quorum. The authority may elect a secretary and a treasurer, who may, but need not, be members of the authority. ~~Three~~Four members of the authority constitute a quorum, and the affirmative vote of 34 members is necessary for any action taken by the authority.

Sec. 5. 35-A MRSA §9203, sub-§6, as enacted by PL 2005, c. 665, §3, is repealed.

Sec. 6. 35-A MRS §9204, as amended by PL 2009, c. 63, §§1 and 2, is repealed.

Sec. 7. 35-A MRS §9204-A is enacted to read:

§ 9204-A. Duties of authority

1. Establish criteria defining unserved and underserved areas. The authority, by rule adopted pursuant to section 9205, subsection 3, shall establish criteria to define unserved and underserved areas with respect to broadband service. Criteria established by the authority to define unserved and underserved areas must include the percentage of households with access to broadband service within a municipality or other appropriate geographic area. The authority shall use these criteria to determine those areas of the State that are unserved or underserved.

2. Promote use of broadband service. The authority shall promote use of broadband service by identifying and sharing best practices that encourage use of broadband service, eliminating barriers to use of broadband service and facilitating and supporting public-private partnerships to increase use of broadband service.

3. Support local and regional broadband planning. The authority shall provide technical and financial assistance to communities in the State that include unserved and underserved areas to identify the need for broadband infrastructure and services and develop and implement plans to meet those needs.

4. Support broadband investment. The authority shall expand the availability of broadband service to residential and small business customers in unserved or underserved areas by identifying, developing and providing funding for broadband investments that will benefit multiple unserved and underserved communities and may be used by multiple providers.

5. Facilitate state support of deployment of broadband infrastructure. The authority shall review, recommend and facilitate changes in laws, rules, programs and policies of the State and its agencies to further deployment of broadband infrastructure to all unserved and underserved areas of the State. The authority shall assist in identifying opportunities to use broadband infrastructure to achieve the state policies and goals as set out in section 9202-A and support coordination between communications providers and state and local governmental entities, including coordination with the statewide emergency radio network.

6. Collect and disseminate information. The authority shall collect, aggregate, coordinate and disseminate information regarding the availability of and need for advanced communications technology infrastructure in the State and opportunities for funding for broadband infrastructure and education.

7. Administer funds. The authority shall administer the ConnectME Fund as established pursuant to section 9211.

8. Limitations on activities of the authority. The authority may not develop, acquire, fund, coordinate or otherwise undertake any project or make any grant, direct investment or loan under this chapter unless the authority determines that without the authority's action the installation of adequate advanced communications technology infrastructure in an unserved or underserved area would not occur within the same time period. Notwithstanding any other provision of this chapter, the authority may not provide any wireline, wireless, satellite, voice, data or video service at retail or wholesale.

Sec. 8. 35-A MRSA §9206, as enacted by PL 2005, c. 665, §3, is repealed.

Sec. 9. 35-A MRSA §9208, sub-§2, as enacted by PL 2005, c. 665, §3, is amended to read:

2. Activities. Documents the activities of the authority, including review of applications for funding received by the authority a detailed description of the progress toward the goals and objectives established in the triennial strategic plan under section 9218;

Sec. 10. 35-A MRSA §9211, sub-§2, as enacted by PL 2005, c. 665, §3, is amended to read:

2. Assessment. After receiving authorization pursuant to Title 5, section 8072 to finally adopt major substantive rules under section 9205, subsection 3 or after January 15, 2007, whichever is later, the authority may require every communications service provider to contribute on a competitively neutral basis to the fund. The assessment may not exceed 0.25% of the revenue received or collected for all communications services provided in this State by the communications service provider. A facilities-based provider of wireless voice or data retail service may voluntarily agree to be assessed by the authority as a communications service provider under this subsection.

Sec. 11. 35-A MRSA §9216, sub-§4, ¶A, as enacted by PL 2009, c. 612, §10, is amended to read:

A. Deposit 5% of the funds received under subsection 3 into the ConnectME Fund established under section 9211 and may use these funds to support the activities of the authority under this section and for the purposes of section 92049204-A; and

Sec. 12. 35-A MRSA §§9217 and 9218 are enacted to read:

§ 9217. Community broadband planning

The authority shall provide funds for broadband planning grants to municipalities, groups of municipalities in the same region of the State or private or public organizations to develop plans to expand the availability of broadband services in unserved and underserved areas.

1. Requirements of plans. Plans funded through grants under this section must:

A. Define local broadband needs and goals;

B. Inventory existing broadband infrastructure assets within the municipality, municipalities or region;

C. Include a gap analysis defining the additional broadband infrastructure necessary to meet identified needs and goals;

D. Include initial network design, cost estimate, operating models and potential business models and partners to support the investment necessary to fill any broadband gap identified in paragraph C; and

E. Include an assessment of all municipal procedures, policies, rules and ordinances that have the effect of delaying or increasing the cost of broadband infrastructure deployment.

The authority shall make all plans developed using grant funds under this section available on the authority's publicly accessible website.

2. Rules. The authority shall adopt rules to ensure that grants are equitably distributed throughout the unserved and underserved areas of the State and that the grants encourage collaboration between multiple communities. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

3. Precertification. The authority may establish a precertification process to determine eligibility for grants pursuant to this section to encourage adoption of identified best practices by participating municipalities.

§ 9218. Broadband service strategic plan

1. Broadband service strategic plan. The authority shall draft a detailed, triennial strategic plan for broadband service that includes quantifiable measures of performance to carry out the duties in section 9204-A and to further the goals and policies in section 9202-A. The strategic plan must include, but is not limited to, budget allocations, objectives, targets, measures of performance, implementation strategies, timelines, a definition of "broadband" and other relevant information.

2. Public input. The authority shall post the draft of the triennial strategic plan pursuant to subsection 1 on the authority's publicly accessible website 90 days before the date on which the plan will be voted on and provide opportunity for written comments and a public hearing at least 30 days prior to voting.

3. Approval of triennial strategic plan. The authority shall approve the triennial strategic plan pursuant to subsection 1 by affirmative vote of 2/3 of its members upon a finding that the plan is consistent with the policies, duties and requirements of the authority as set forth in this chapter.

Sec. 13. Triennial strategic plan for broadband service. By December 31, 2015, the ConnectME Authority shall establish and approve the first triennial strategic plan for broadband service pursuant to the Maine Revised Statutes, Title 35-A, section 9218.

SUMMARY

This bill amends the Advanced Technology Infrastructure Act. It amends the definitions of "communications service" and "communications service provider." It makes changes to the State's goals and policies in the Act. It amends the membership of the ConnectME Authority and amends the duties of the authority. It requires the authority to provide funds for broadband planning grants. It abolishes the ConnectME Advisory Council. It requires the authority to establish a triennial strategic plan for broadband service and to report to the Legislature on progress toward meeting the plan's goals and objectives.